

IN THE UNITED STATES DISTRICT COURT

FOR THE DISTRICT OF NEW MEXICO

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JEFFREY FORTER,

Plaintiff,

v.

No. CIV 04-791 BB/RHS

ERMA BUSTOS, et al.,

Defendants.

**ORDER ADOPTING THE MAGISTRATE JUDGE'S PROPOSED FINDINGS  
AND GRANTING IN PART AND DENYING IN PART  
PLAINTIFF'S MOTION FOR SUMMARY JUDGMENT**

THIS MATTER comes before the Court on "Plaintiff's Answer to Defense Supplemental Martinez Report and Motion for Summary Judgment ("Motion for Summary Judgment"), filed May 22, 2008 [Doc. No. 74] and the "Magistrate Judge's Proposed Findings and Recommended Disposition Regarding Plaintiff's Motion for Summary Judgment" ("PFRD"), filed February 3, 2009 [Doc. No. 80]. No objections have been filed to the Magistrate Judge's PFRD. Having considered the same, the Court will adopt the proposed findings of the United States Magistrate Judge, will grant in part and deny in part Plaintiff's Motion for Summary Judgment and will remand this matter to the Magistrate Judge for further proceedings.

**WHEREFORE,**

**IT IS ORDERED** that the Magistrate Judge's proposed findings [Doc. No. 80] are adopted by the Court.

**IT IS FURTHER ORDERED** that "Plaintiff's Motion for Summary Judgment" [Doc. No. 74] is **granted in part and denied in part** as follows:

- (1) summary judgment is **granted** on Plaintiff's claim that Defendants violated his First Amendment rights by prohibiting his receipt of a newspaper subscription in Level IV; and
- (2) summary judgment is **denied** on Plaintiff's claim that Defendants violated his First Amendment rights by prohibiting his receipt of a newspaper subscription in Levels VI and V.

**IT IS FURTHER ORDERED** that summary judgment is **granted** in Defendants' favor on Plaintiff's claim that his First Amendment rights were violated by Defendants' policy prohibiting Plaintiff's receipt of a newspaper subscription in Levels VI and V.

**IT IS FINALLY ORDERED** that this matter is remanded to the Magistrate Judge for further proceedings.

  
UNITED STATES DISTRICT JUDGE